



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 27, 1995

Mr. James T. Russell  
Administrative Assistant  
27th Judicial District of Texas  
P.O. Box 540  
Belton, Texas 76513

OR95-706

Dear Mr. Russell:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30911.

The District Attorney's Office for the 27th Judicial District of Texas (the "district attorney") received a request for "a copy of the court transcripts for the murder trial of Gert J. Schroer . . . and a copy of the Death Certificate for Mrs. Nielson, Victim of the crime." You state that the district attorney does not have a copy of the death certificate.<sup>1</sup> You also contend that the remaining records, the grand jury indictment for cause No. 21,823; a copy of the bail bonds filed February and March, 1974; a copy of the complaint for murder; a copy of the arrest warrant; and a copy of the motion and order dismissing cause No. 21,823, are excepted from required public disclosure under section 552.101 of the Government Code.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You claim that the remaining records constitute criminal history record information ("CHRI") and are confidential under state and federal law.

---

<sup>1</sup>The Open Records Act does not ordinarily require a governmental body to obtain information not in its possession, Open Records Decision No. 558 (1990), 518 (1989), 499 (1988); or to obtain information from another entity, so long as the entity does not hold the information on behalf of the governmental body, Open Records Decision No. 534 (1989); or to obtain new information in order to comply with a request, Open Records Decision No. 561 (1990); or to take affirmative steps to create or obtain information that is not in its possession, Open Records Decision No. 534 (1989). Accordingly, the district attorney's office has fully complied with the Open Records Act by informing the requestor that the death certificate is not in its possession.

CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (the "DPS") maintains, except that the DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. However, CHRI is a compilation of information collected about a person by a criminal justice agency, *id.* § 411.082(2), not information about a specific incident, *id.* § 411.081(c), or "information that is related to the offense for which a person is involved in the criminal justice system," *id.* § 411.081(b).

The information you have submitted for our review does not constitute CHRI. As you have raised no other exceptions to disclosure, you must release the requested information in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll  
Assistant Attorney General  
Open Government Section

MAR/LBC/rho

Ref: ID# 30911

Enclosures: Submitted documents

cc: Fred & Ute Russell  
11107 E. 25th Street  
Independence, Missouri 64052  
(w/o enclosures)